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THE BOC GROUP, INC.
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In re Application of :
DAVENNE, Tristan Richard Ghislain, et al. :
Application No.: 10/594,260 : DECISION ON
PCT No.: PCT/GB2005/001087 :
Int. Filing Date: 22 March 2005 : PETITION UNDER
Priority Date: 26 March 2004 :
Attorney Docket No.: M04B101 : 37 CFR 1.47(a)
For: GEAR ASSEMBLY :

This is in response to applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 29 October 2007.

BACKGROUND

On 22 March 2005, applicants filed international application PCT/GB2005/001087, claiming a priority date of 26 March 2004. The deadline for paying the basic national fee in the United States expired at midnight on 26 September 2006.

On 25 September 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 27 April 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required.

On 29 October 2007, applicants submitted this petition accompanied by a declaration of an inventor and a firsthand statement of facts and the fee for a four month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (3) and (4) have been met. The \$200 fee for this petition will be charged to deposit account no. 50-4244, as authorized. Applicants state that the last known address of inventor Tristan Richard Ghislain Davenne as 15 Chapel Road, Epping, Essex CM16 5DS, United Kingdom. The declaration submitted complies with 37 CFR 1.47(a) and 37 CFR 1.497(a)-(b).

Item (2) has not been satisfied. A refusal to sign a declaration in the absence of presentation with a complete copy of the application papers including the declaration is not normally sufficient. On 09 October 2007, applicant sent a copy of the application papers and a declaration to the non-signing inventor. However, a review of those papers indicates that only the first two pages of the declaration were sent. The declaration failed to list the correct inventive entity. Failure to sign a defective declaration is reasonable.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

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